

LABOUR DEPARTMENT

The 31st May, 1984

No. 9/5/84-6 Lab/3564.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Belmont Rubber Industries, 58 B, Industrial Area, N. I. T., Faridabad:—

BEFORE SHRI R. N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 338/1982

between

SHRI NAND LAL, WORKMAN AND THE MANAGEMENT OF M/S BELMONT
RUBBER INDUSTRIES, 58-B, INDUSTRIAL AREA, N. I. T., FARIDABAD

Present:—

Shri Manohar Lal & Shri P. N. Diwedi for the workman.

Shri R. C. Sharma for the management.

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Nand Lal, workman and M/s Belmont Rubber Industries, 58-B, Industrial Area, N. I. T., Faridabad, (Management) to this Tribunal,—vide Order No. ID/FD/208/82/44133, dated 22nd September, 1982, for adjudication:—

Whether the termination of service of Shri Nand Lal was justified and in order? If not, to what relief is he entitled?

2. In the claim-statement filed on 29th November, 1982, the workman alleged that he was working in the management's factory since 19th June, 1979, and was drawing Rs. 320/- per month. It was further stated that false allegations were made against him which resulted in his suspension, but no suspension allowance was given to him. It was then alleged that during the suspension period, he was permitted to leave station on leave to attend his ailing wife from 14th May, 1982 to 14th June, 1982 and reported himself on the gate of the factory on 15th June, 1982, but he was not allowed to mark his presence in the attendance register and was told that his name had been struck off because of his resignation, when he reported the matter to the Labour Inspector regarding his fake resignation, it was alleged that the order for terminating the services of the workman with effect from 13th May, 1982, was illegal and against the principles of natural justice and as such, he be reinstated with full back wages.

3. The management in their written statement pleaded that the workman had resigned from the services of the management on 13th May, 1982 of his own accord and when his accounts were being settled, had demanded retrenchment compensation etc. which was not due to him and his request was declined by the management. It was then pleaded that nothing was heard from the workman for a long time and that it was a case of resignation and not termination of services by the management. The pleas taken by the workman in the claim statement were denied.

4. The workman in his rejoinder, dated 28th December, 1982, reiterated the pleas taken in the claim petition.

5. On the pleadings of the parties, the following issues were framed on 11th January, 1983.—

(i) Whether the workman has resigned his job? (OPM).

(ii) Whether the termination of service of Shri Nand Lal was justified and in order? If not, to what relief is he entitled? (OPM)

The management examined Shri Mohinder Luthra Factory-Manager as M-1 who proved the documents Ex. M-1 and M-2, Shri Nand Lal, workman appeared as W-1 and proved the documents Ex. W-1 to W-4. After going through the evidence both oral and documentary, and hearing both the sides, my findings, on the above issues, are as under:—

Issue No. I.

6. The management examined, W-1 Shri Mohinder Luthra, Factory Manager who stated that the services of the workman were not terminated by the management, but, on the other hand, the workman had tendered resignation and that the signatures of the workman appeared at point "A" in the letter of resignation Ex. M-1. He further stated that Shri S. S. Gulati, Managing Partner, had accepted the said resignation. He then stated that the accounts of the workman were prepared regarding his earned

leave etc. but the workman did not accept that amount and demanded gratuity as well which was not due to him. He stated that before that, the workman had been chargesheeted and was under suspension. He then stated that the name of the workman did not exist on the muster roll after May, 1989 1982. Ex. M-1 is alleged the letter of resignation dated 13th May 1982, in which it is recited that the workman did not want to serve the management and that he did not wish to raise any dispute regarding his suspension and that his accounts be settled. Ex. M-2 is the application form as well as appointment letter which shows that the workman was appointed as helper on 3rd September, 1980 at the rate of Rs. 320 per Month.

7. Shri Nand Lal workman has appeared as WW-I, who stated that the management got man-handled one Shri Mahabir Parsad while he was on duty and that he accompanied Shri Mahabir Parsad along with others workers to the Police Station due to which he was suspended by the management. He then stated that the charge-sheet dated 16th April, 1982 Ex. W-1 was served on him and he filled the reply Ex. W-2 dated 20th April, 1982. He then stated that he received telegram Ex. W-3 regarding serious illness of his wife on 13th May, 1983. When his leave was orally sanctioned by the management. He further stated that he sent an application to the Labour Inspector, Sector-15, Faridabad copy Ex. W-4 on 13th May, 1982 in which it was mentioned by him that his leave was orally sanctioned by the management from 14th May, 1982 to 14th June, 1982 but no order in writing was being passed. He then stated that when he came back after availing of the leave he was not allowed to join duty. He further stated that he never affixed his signatures on the alleged letter of resignation Ex. M-1. He also stated that he did not receive any letter terminating his services nor any compensation was paid to him.

8. The above testimony of Shri Mohinder Luthra, Factory Manager to the effect that the workman had tendered resignation cannot be accepted because the workman had already been chargesheeted by the management,—vide chargesheet Ex. M-1 dated 16th April, 1982 and he had submitted his reply on 20th April, 1982 Ex. W-2 and was already under suspension. The workman wanted leave for one Month with effect from 13th May, 1982 because he received a telegram on that date to the effect that his wife was seriously ill,—vide telegram Ex. W-3. The workman had clearly stated that the leave was sanctioned for a period of one Month from 14 May, 1982 to 14 June, 1984 but no order in writing was being passed, due to which he wrote a letter to the Labour Inspector on that very copy date Ex. W-1, giving therein all the details. Then the workman was already under suspension and was not doing any workman, it was so easy to grant leave to him for one month so that the workman could go home to attend to his ailing wife. The workman sent a letter to the Labour Inspector mentioning therein that his leave was sanctioned orally by the management but no order in writing was being passed. In such a situation it cannot be believed that the workman had tendered his resignation specially when his wife was in trouble and he himself was under suspension and needed money to support himself and his family members. The workman has specifically denied his signatures on the alleged letter of resignation. His relations with the management were not cordial on 13th May, 1982 because the management had chargesheeted him and placed him under suspension because in the chargesheet Ex. W-1. It was stated that due to the acts of the workman, the reputation of the management was damaged. The report was lodged with the Police and the alleged letter of resignation is not attested by any office bearer of the union because if the workman had, in fact tendered his resignation. The management could get the same attested from some members of the union as a precautionary measure as the relations between the workman and the management were strained on the date. Under these circumstances, the testimony of Shri Mohinder Luthra, Factory Manager to the effect that the workman had tendered his resignation cannot be accepted, specially when Shri S. S. Gulati, Managing Partner who had accepted the resignation, has not appeared in the witness box. Consequently, the document Ex. M-1 is not a genuine piece of evidence. It is, thus, held that the workman did not resign his job on 13th May, 1982 on the basis of the alleged document, Ex. M-1. The issue is decided accordingly against the management.

Issue No. 2.

As already mentioned in issue No. 1 that the workman was chargesheeted and his reply was obtained. No enquiry held by the management and the plea taken by the management that the workman had tendered his resignation, has not been accepted. Consequently, the order of termination of service of the workman was not justified and in order. Issues No. 2 is decided accordingly against the management. As a consequence, the workman is entitled to reinstatement with full back wages. The award is passed accordingly.

Dated the 12th May, 1984.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

Endst. No. 333, dated 16th May, 1984

Forwarded (four copies) to the Commissioner & Secretary to Government Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the I. D. Act, 1947.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.